REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed July 28, 2005 (the "Office Action"). Claims 1-19 are pending in the application. To advance prosecution of this case, Applicants amend Claims 1, 5, and 11-17. In addition, Applicants adds new Claim 20. Applicants do not admit that any amendments are necessary due to any prior art. Applicants respectfully request reconsideration and allowance of all pending claims.

Section 102 Rejections

The Examiner rejects Claims 1-19 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,826,013 issued to Nachenberg (*"Nachenberg"*). Applicants respectfully request reconsideration and allowance of all pending claims.

Nachenberg fails to teach, suggest, or disclose several aspects of amended Claim 1. First, this reference fails to teach, suggest, or disclose "heuristically analyzing a subject file" as recited, in part, in amended Claim 1. Second, there is nothing in *Nachenberg* that teaches, suggests, or discloses "identifying at least one new characteristic of a viral code" as recited, in part, in amended Claim 1. Third, the cited reference fails to teach, suggest, or disclose "generating at least one new rule, the at least one new rule based at least in part on the at least one new characteristic" as recited, in part, in amended Claim 1.

First, *Nachenberg* fails to teach, suggest, or disclose "heuristically analyzing a subject file" as recited, in part, in amended Claim 1. *Nachenberg* discloses a module for detecting polymorphic viruses by emulating instructions of a computer program. (*Nachenberg*; col. 3, ll. 6-7). In particular, the module in *Nachenberg* stores profiles of known polymorphic viruses. (*Nachenberg*, col. 8, ll. 24-27). As each instruction is emulated, the module compares the emulated instruction with the profiles of known polymorphic viruses. (*Nachenberg*, col. 8, ll. 24-27). Each profile that does not implement the emulated instruction is eliminated from further consideration. (*Nachenberg*, col. 8, ll. 27-31). When all profiles are eliminated from consideration, the module in *Nachenberg* compares virtual memory pages that were modified during emulation of the instructions with signatures of known polymorphic viruses. (*Nachenberg*; col. 10, ll. 13-18). Thus, the method in *Nachenberg* uses profiles of known polymorphic viruses "*rather than heuristic stopper and booster code sequences.*" (*Nachenberg*; col. 3, ll. 5-6) (emphasis added). Unlike

Nachenberg, which specifically avoids heuristic analysis, the method of amended Claim 1 comprises "heuristically analyzing a subject file" as recited, in part, in amended Claim 1. There is nothing in *Nachenberg* that teaches, suggests, or discloses this aspect of amended Claim 1. Because *Nachenberg* fails to teach, suggest, or disclose "heuristically analyzing a subject file" as recited, in part, in amended Claim 1, *Nachenberg* does not support the rejection.

Second, there is nothing in *Nachenberg* that teaches, suggests, or discloses "identifying at least one new characteristic of a viral code" as recited, in part, in amended Claim 1. As described above, the module in *Nachenberg* compares each emulated instruction with stored profiles of known polymorphic viruses. (*Nachenberg*, col. 8, ll. 24-27). Each profile that does not implement the emulated instruction is eliminated from further consideration. (*Nachenberg*, col. 8, ll. 27-31). When all profiles are eliminated, the module compares virtual memory pages that were modified during emulation with signatures of known polymorphic viruses. (*Nachenberg*; col. 10, ll. 13-18). Thus, the method in *Nachenberg* detects polymorphic viruses by comparing and eliminating known profiles. *Nachenberg*, however, makes no reference to "identifying at least one new characteristic of a viral code" as recited, in part, in amended Claim 1. Because the cited reference fails to teach, suggest, or disclose this aspect of amended Claim 1, the reference does not support the rejection.

Third, *Nachenberg* fails to teach, suggest, or disclose "generating at least one new rule, the at least one new rule based at least in part on the at least one new characteristic" as recited, in part, in amended Claim 1. As explained above, the module in *Nachenberg* compares each emulated instruction with the stored profiles of known polymorphic viruses. (*Nachenberg*, col. 8, ll. 24-27). There is nothing in *Nachenberg* that teaches, suggests, or discloses "generating at least one new rule, the at least one new rule based at least in part on the at least one new characteristic" as recited, in part, in amended Claim 1. Because the cited reference fails to teach, suggest, or disclose this aspect of amended Claim 1, the cited reference does not support the rejection. For at least these reasons, Applicants respectfully request reconsideration and allowance of amended Claim 1.

In rejecting Claims 11-14, the Examiner employs the same rationale used in rejecting amended Claim 1. Accordingly, for at least the reasons stated with respect to amended Claim 1, Applicants respectfully request reconsideration and allowance of amended Claims 11-14.

Claims 2-4, 6-10, and 18-19 and amended Claims 5 and 15-17 depend from independent claims shown above to be allowable. In addition, these claims recite further elements not taught, suggested, or disclosed by *Nachenberg*. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 2-4, 6-10, and 18-19 and amended Claims 5 and 15-17.

CONCLUSION

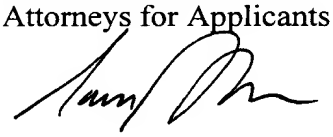
Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending claims.

If there are matters that can be discussed by telephone to further the prosecution of this Application, Applicants invite the Examiner to call the undersigned attorney at (214) 953-6581 at the Examiner's convenience.

Although no fees are believed due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



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PATENT APPLICATION
09/905,342

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Markus (nmi) Schmall, et al.
Serial No.:	09/905,342
Filing Date:	July 14, 2001
Examiner:	Courtney D. Fields
Art Unit:	2137
Title:	DETECTION OF A CLASS OF VIRAL CODE

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that the attached Response (11 pages), Amendment Transmittal Form (2 pages), Baker Botts return postcard (1 postcard), and this Certificate of Mailing (1 page) are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on this 28th day of September 2005 and is addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Willie Jiles

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